

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

MARTINA M OLSON
Claimant

APPEAL NO: 11A-UI-12990-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CORIZON HEALTH INC
Employer

**OC: 08/28/11
Claimant: Appellant (2)**

Iowa Code section 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's September 22, 2011 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had been discharged for disqualifying reasons. The claimant participated in hearing. The employer did not respond to the hearing notice or participate in the hearing. During the hearing, Claimant Exhibit A, her appeal letter, was offered and admitted as evidence. Based on the evidence, the claimant's arguments, and the law, the administrative law judge finds the claimant qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in August 2010. She worked as a full time LPN. Part of the claimant's job required her to give meds to inmates.

On August 23, the claimant worked the 7 a.m. to 7 p.m. shift. Sometime after 3:20 p.m., while the claimant was passing meds to inmates, her supervisor contacted her. The claimant's supervisor asked the claimant to give an inmate in medical holding medication after she completed her med pass. The claimant was also told the employer had received some bottles of medication that the claimant was to put in her narcotics box on her med cart.

After the claimant completed her med pass, she was called on an emergency. When the claimant finished at the first emergency, she was called to go to another emergency. When the second emergency had been completed, the claimant received a call to go to another emergency. Before completing the inmate involved with the third emergency call, she and other nurses on duty were told about an inmate having a seizure. The inmate having the seizure was the person the claimant had been told to give medication to after she finished her med pass. The claimant went to assist in this medical emergency. The inmate was taken to the hospital.

When the claimant returned to the pharmacy, the order for the inmate who had the seizure was not written on the MAR and the claimant did not know where the inmate's chart was at. The claimant completed the narcotic count on her cart and then discovered the bottles her supervisor asked her to put in her narcotic box were too large to fit. The claimant talked to other nurses at work and they collectively decided to put the bottles in the sharps cabinet where they could be locked up.

The employer discharged the claimant on August 29 for failing to follow her supervisor's directives – to give an inmate medication and to put bottles of medication in the narcotic box on her med cart. The employer did not ask the claimant to explain what had happened during her August 23 shift.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code section 96.5(2)a. The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Employment Appeal Board*, 616 N.W.2d 661, 665 (Iowa 2000).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The employer discharged the claimant for business reasons. The evidence does not establish that the claimant intentionally failed to give an inmate medication or intentionally failed to follow her supervisor's directions. After the claimant finished her med pass, she was called to three emergencies. Before she had finished with the third emergency, she learned the patient her supervisor asked her to give medication was having a seizure. The claimant may have used poor judgment when she did not ask someone else to give this inmate the medication. She also may have been negligent when she forgot to give the inmate the medication after being called to two emergency situations. This single incident does not amount to work-connected misconduct. *Henry v. Iowa Department of Job Service*, 391 N.W.2d 731 (Iowa App. 1986). The claimant did not commit work-connected misconduct. Therefore, as of August 28, 2011, the claimant is qualified to receive benefits.

DECISION:

The representative's September 22, 2011 determination (reference 01) is reversed. The employer discharged the claimant for reasons that do not constitute work-connected misconduct. As of August 28, 2011, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs